

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,

Plaintiff,

v.

CITY OF STOCKTON, et al.,

Defendants.

No. 2:20-cv-1178 KJM AC

ORDER

Plaintiff proceeds in this action in pro per and in forma pauperis. The matter was referred to a United States Magistrate Judge as provided by Local Rule 302(c)(21).

On November 10, 2021, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty-one days. ECF No. 26. Plaintiff has filed objections to the findings and recommendations. ECF No. 27.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

On August 26, 2020, the magistrate judge recommended dismissal of this action as duplicative of *Whitsitt v. City of Stockton, et.al*, Case No. 2:20-cv-00131 KJM AC PS. ECF No. 4. On March 25, 2021, the court adopted the findings and recommendations in full and

1 dismissed the action. ECF No. 11. Plaintiff includes in his objections to the current findings and
2 recommendations a contention that this action is no longer duplicative of Case No. 20-cv-00131
3 KJM AC PS because the latter action has been dismissed. Plaintiff did not raise this contention in
4 his Rule 60(b) motion and, in any event, it is without merit. Plaintiff is correct that Case
5 No. 20-cv-00131 KJM AC PS is now closed; it was dismissed on March 25, 2021 for failure to
6 state a claim and without further leave to amend, and the court subsequently denied plaintiff's
7 motion to reopen that case. *See* Case No. 20-cv-00131 KJM AC PS, ECF Nos. 15, 18, 23. The
8 dismissal of that case does not alter the court's findings that the allegations of this action
9 duplicated the allegations of the Case No. 20-cv-00131 KJM AC PS, nor does the dismissal of
10 that action require the court to allow plaintiff to proceed with this one.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. The findings and recommendations filed November 10, 2021, are adopted in full;
13 2. Plaintiff's Motion (ECF No. 25) is DENIED; and
14 3. No further Rule 60 motions will be considered.

15 DATED: May 23, 2022.

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18 CHIEF UNITED STATES DISTRICT JUDGE
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